

## **EASTERN SHIPPING ASSOCIATES PTY. LIMITED**

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4 June 2007

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
P.O. Box 1199  
Dickson ACT 2602

Dear Sirs,

**Re : Toll GeelongPort Pty Ltd Exclusive Dealing Notification N92776 – Interested Party**

I refer to your advice N92776 dated 1 February 2007 regarding the above, requesting submissions from interested parties.

We are shipbrokers for Omya Australia Pty. Ltd., an importer of bulk calcite through Geelong Port, and have advised other importers and ship owners who are using the port to discharge their bulk cargoes, in our capacity as brokers and Shipping Consultants. We also represent INTERCARGO (The International Association of Dry Cargo Ship Owners), a London based international organization whose membership comprises many of the world's bulk carrier ship owners and operators, and who work closely with the IMO (International Maritime Organisation – a UN body).

INTERCARGO's policy and our policy at Eastern Shipping Associates Pty. Ltd. is always to support competition at all levels in the transportation chain.

We strongly oppose the proposed exclusive dealing arrangements governing the use of the figee cranes at Lascelles Wharf Geelong, for the following reasons :

- It is anti competitive.
- It is **not in the overall** best interests of Australia, in that it has the propensity to increase costs of basic raw materials that will ultimately flow on to the Australian consumer.
- It restricts productivity at the level of both the ship and the importer.

Apart from the dedicated belt self-unloading bulk carriers used for coastal cargoes and operated by our clients CSL Australia Pty. Ltd. and others such as Jepsens Australia Pty. Ltd., the majority of bulk cargoes imported into Geelong through Lascelles wharf are fertilizers, carried on modern conventional 'handysize' bulk carriers fitted with their own cranes, generally of 30mt capacity, and in some cases their own grabs. Modern grabs are generally of 12-14 cbm capacity. Modern (less than 15 years) bulk carriers are generally insisted on by the importers as otherwise they are charged an increased insurance premium by their cargo insurers, and Owners also do not like to risk sending older vessels to Australia because our Port State Control has an extremely high standard of safety inspection regime.

Should the importing conventional bulk carrier not have its own grabs, then there are third party operators at the port, such as Bruce Stevens Bulk Commodities Pty. Ltd. and the independent stevedores. To complement discharge of bulk cargoes at Lascelles wharf, it is also necessary to have a shore based hopper that can quickly and efficiently load road transport, as cargo cannot be dumped onto that wharf for various reasons, including pollution risk and wharf strength – the fastest way of discharging bulk cargo is to discharge on to the wharf deck and then reload to trucks using front end loaders, and the next fastest is to use a large modern hopper arrangement for the grabs or belt self-unloaders to discharge to, and then from the hopper to the trucks. Third parties at Geelong also provide shore hoppers at Lascelles wharf.

Lascelles wharf can berth 3 handysize bulk carriers, and there is a total of 3 figee cranes available – one per berth/vessel. These figee cranes are old and are subject to breakdown.

A conventional bulk carrier generally has four cranes, and the ship is designed so that these four cranes can all be operated simultaneously in a safe manner, discharging either on to a wharf or into hoppers. It is possible for two cranes to safely service one hopper, on the 'one in, one out of the hold' basis.

Essentially, a discharge using at least three ship's cranes is the most efficient way of discharging bulk cargoes with each crane having the capacity to discharge at close to 300 tph (they slow down towards the end of the discharge when they are not 'free grabbing'). The exception would be if there was a shore gantry crane available of large capacity, such as is used at Port Kembla or at various Chinese ports, where productivity of close to 25,000 tpd can be achieved – at Geelong we are achieving 14,000 tpd on the belt self-unloaders (which are restricted only by the capability of the trucks to take the cargo away) and probably 12,000 tpd on craned bulk carriers.

Two important factors relating to the landed cost of a bulk commodity is the freight and the stevedoring cost. The level of freight rates takes into consideration the daily rate of discharge that can be guaranteed by the Charterer – the higher the productivity, the lesser the cost in dollars per day x ship's time, and port charges and bunkers which are lesser should the vessel spend less time in port.

Stevedoring costs comprise the cost of labour and equipment. If the ship has its own equipment, stevedoring cost is reduced simply to a gross labour cost, which can be minimized through increases in productivity.

The hire of a grab and hopper added to the labour cost and using ship's cranes, in the case of Lascelles berth, is about \$5.95pmt compared to the cost of using the figee cranes plus labour of \$7.68pmt – an additional cost of \$1.73pmt (or 29 percent) for the latter.

The above numbers were relevant to a recent vessel that was chartered through us to discharge bulk cargo at Lascelles wharf Geelong. Our clients were forced by Toll GeelongPort to use the figee cranes at this extra cost despite our client's wish to utilise the ship's cranes and hired grabs/hopper. The figee cranes experienced breakdowns and the productivity was slower than our clients had estimated using the ship's cranes and third party grabs/hopper.

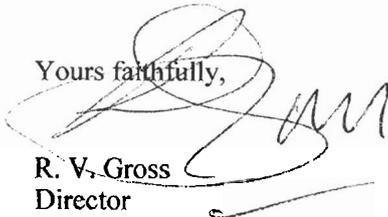
Many ships carrying bulk fertilizer to Australia have their own grabs, and the Charterers pay a premium for this as the grabs give them flexibility to discharge at a range of ports that do not have shore based discharging equipment. Australia has in excess of 40 licensed ports and very few have shore based discharge facilities. Those that do, unlike Geelong, leave it to the port users to decide whether they will use ship or shore based equipment.

We would also comment that modern ship and shore based grabs discharging into state of the art shore based hoppers such as those available at Geelong have almost no cargo spillage by leakage or by wind (dust), so there is little or no environmental disruption caused by this equipment.

Finally, we understand that certain written undertakings were given to the ACCC by Toll GeelongPort on 21 May and 21 July 1999 in relation to maintaining open competition within the port, and any exclusive dealing application by Toll GeelongPort is in direct contravention of these undertakings, and severely restricts the concept of open competition at the port.

We therefore urge you to refuse Toll GeelongPort's application for exclusive dealing rights at Geelong.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'R. V. Gross', written over a horizontal line. The signature is fluid and cursive.

R. V. Gross  
Director